

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re: GERALD EDWARDS DANIELS  
REBECCA VAUGHAN DANIELS

CASE No. 14-36687-KRH

Debtors

CHAPTER 13

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Movant,

vs.

GERALD EDWARD DANIELS,  
and  
REBECCA VAUGHAN DANIELS,  
and  
SUZANNE E. WADE, TRUSTEE,

Respondents

**MOTION FOR RELIEF FROM STAY  
AND NOTICE OF MOTION AND HEARING**

The motion of the Movant, VIRGINIA HOUSING DEVELOPMENT AUTHORITY,  
by counsel, respectfully represents as follows:

1. That Movant is a political subdivision of the State of Virginia.
2. That on December 16, 2014, Debtors filed in this Court a Petition under Chapter 13 of the United States Bankruptcy Code, whereupon an Order for Relief was entered.

**Julian A. Bryant, Jr. (VSB #1168)**  
**EVANS & BRYANT, PLC**  
**Counsel for Movant**  
**2101 Parks Avenue, Suite 301**  
**Virginia Beach, Virginia 23451-4183**  
**(757) 437-9500**  
**Julian.bryant@vblawyers.com**

3. That SUZANNE E. WADE is appointed Trustee.
4. That the Court has jurisdiction over this contested matter pursuant to 11 U.S. C. § 362(d) and (e), and this action is a core proceeding within the meaning of 28 U.S.C. § 157.
5. That at the time of the filing of the Petition in Bankruptcy herein and now, Debtors owned or held an interest in the following property (hereinafter the "Property"):

All that certain lot, piece or parcel of land, together with the buildings and improvements, belonging, lying and being in the Rohoic District, Dinwiddie County, Virginia, known, numbered and designated as Lot 31, "Sysonby Ridge, Section 4", on a certain plat made by Charles C. Townes and Associates, P.C., recorded in the Clerk's Office of the Circuit Court of the County of Dinwiddie, in Plat Book 14, at Page 90, 91, to which reference is hereby made for more particular description.

**This Property is commonly known as 4425 McILwaine Dr., Petersburg, Virginia 23150.**

6. That Movant is the holder of a certain Note which is secured by a certain Deed of Trust recorded in the Clerk's Office of the Circuit Court of the County of Dinwiddie, Virginia, in Deed Book 365, at Page 1, encumbering the Property, and which Note has an outstanding principal balance of \$46,345.15 as of the date hereof.

7. That the mortgage loan account is in default for the regular mortgage loan payment due October 1, 2015 and all due thereafter, and the amount necessary to reinstate post-petition is \$2,540.63 as of this date, exclusive of Movant's attorney's fees and costs, itemized as follows:

\$ 2,891.44	4 payments (October 2015 thru January 2016) @\$722.86 per month
<u>-350.81</u>	Funds Held in suspense
\$ 2,540.63	Total Missed Post-petition Payments

8. That cause exists for terminating the stay, including the failure of Debtor to make when due post-petition payments to Movant and the failure to provide Movant with adequate protection of its interest in the Property.

9. That there is no equity in the Property for the benefit of Debtors or their estate, and the Property is not necessary for an effective reorganization.

10. That Movant is being injured by its inability to proceed against the Property securing the indebtedness due to the automatic stay provided for in 11 U.S.C. § 362.

WHEREFORE, VIRGINIA HOUSING DEVELOPMENT AUTHORITY moves that the automatic stay provided for by the provisions of Title 11 of the United States Bankruptcy Code be modified in conformance therewith, that the appeal period provided for by Rule 4001(a)(3) be waived, and that it be granted such other and further relief as this Court shall deem proper.

DATED at Virginia Beach, Virginia, this 14th day of January 14, 2016.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

By: /s/ Julian A. Bryant, Jr.  
Of Counsel

**\*\*NOTICE OF MOTION AND HEARING\*\***

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

**If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on the motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 701 East Broad Street, Suite 4000, Richmond, VA 23219, and serve a copy on the movant's attorney at the address shown below. Unless a written response is filed and served within this fourteen-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief.**

**If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the expiration of the fourteen-day period.**

**Attend the preliminary hearing scheduled to be held on:**

**February 10, 2016, at 11:00 a.m. in Courtroom 5000, United States Bankruptcy Court, 701 East Broad Street, Richmond, Virginia.**

**If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.**

**Date: January 14, 2016**

/s/ Julian A. Bryant, Jr.  
Julian A. Bryant, Jr. (VSB #1168)

**PROOF OF SERVICE:**

I hereby certify that on the 14th day of January 2016, a true copy of the foregoing Motion for Relief from Stay and Notice of Motion and Hearing was mailed by electronic means or first class United States mail, postage fully prepaid, to each party required to receive notice under Local Bankruptcy Rule 4001(a)-1(E)(1) as follows:

Debtors: Gerald Edward Daniels  
Rebecca Vaughan Daniels  
4425 McILwaine Dr.  
Petersburg, Virginia 23803

Counsel for Debtors: Richard James Oulton, Esquire  
VIA ECF

Trustee: Suzanne E. Wade  
VIA ECF

/s/ Julian A. Bryant, Jr.  
Julian A. Bryant, Jr. (VSB #1168)

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